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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ANTHONY BARBER
17213 Ernadale Avenue
Cleveland, OH 44111

Plaintiff

-vs-

HARRY PERSAUD, M.D.
29099 Health Campus Drive
Suite 110
Westlake, OH 44145

-and-

HARRY PERSAUD, M.D.
29099 Center Ridge Road
Suite 120
Westlake, OH 44145

-and-

ST. JOHN MEDICAL CENTER
c/o General Counsel Ryan Hooper
2900 Center Ridge Road
Westlake, OH 44145-0000

-and-

ST. JOHN MEDICAL CENTER
c/o Its Statutory Agent
A.G.C. Company
1900 East Ninth Street
Suite 3200
Cleveland, OH 44114

-and-

Judge: JOSEPH D RUSSO

CV 12 790577

COMPLAINT

(Trial by Jury Demanded)

JOHN DOE CORPS. (Nos. 1 & 2))
(Names and addresses unknown))
-and-)
)
JOHN DOES (Nos. 1-10))
(Names and addresses unknown))
)
Defendants)

COUNT I

(Medical Malpractice)

1. At all times herein relevant, Plaintiff, Anthony Barber, was and is a resident of Cleveland, Cuyahoga County, Ohio.

2. Defendant, St. John Medical Center, is and was at all times pertinent herein a medical hospital duly licensed and operating within and under the laws of the State of Ohio. This Defendant held itself out and holds itself out to the public as an accredited hospital with competent hospital staff and hospital employees.

3. At all times pertinent herein, residents, interns, agents and employees of Defendant, St. John Medical Center, rendered care and treatment to Plaintiff, Anthony Barber, and therefore, is responsible for the negligent acts of those residents, interns, agents and employees, under the doctrine of *respondeat superior*.

4. Defendant, Harry Persaud, M.D., is and was at all times pertinent herein a physician licensed to practice medicine in the State of Ohio and rendered medical care and treatment to Plaintiff.

5. At all times pertinent herein, Defendant, Harry Persaud, M.D., was acting as an agent and employee of Defendant, St. John Medical Center, under the doctrine of *respondeat superior*.

6. At all times pertinent herein, Defendant, Harry Persaud, M.D., was acting as an agent and employee of Defendant, John Doe Corps. No. 1 and/or 2. Therefore, Defendant, John Doe Corps. No. 1 and/or 2 are responsible for the negligent acts of their employee, Defendant, Harry Persaud, M.D., under the doctrine of *respondeat superior*.

7. Plaintiff, Anthony Barber, was a patient of Defendants at all pertinent times herein more specifically on or about February 9, 2012.

8. Defendants, individually and/or by and through their agents and/or employees, negligently failed to follow the customary and usual skills and practices in ordinary use by members of their profession in regard to their care and treatment of Plaintiff Anthony Barber.

9. Defendants, individually and/or by and through their agents and/or employees, negligently failed to provide Plaintiff Anthony Barber with competent, safe and acceptable medical care and treatment.

10. Defendants, individually and/or by and through their agents and/or employees, negligently failed to exercise the degree of care and skill ordinarily employed by members of the profession in the same line of practice and/or specialty in the care and treatment of Plaintiff Anthony Barber.

11. As a direct and proximate result of the negligence of Defendants, individually and/or by and through their agents and/or employees, Plaintiff, Anthony Barber, was caused to suffer severe and permanent injuries, both physical and mental, pain and suffering and had incurred medical and hospital expenses.

12. Plaintiff, Anthony Barber, sustained injuries and damages as the result of medical malpractice on February 9, 2012 which occurred when Defendant, Harry Persaud, M.D., performed an unnecessary and negligent cardiac procedure and stent placement at St. John Medical Center.

13. A Motion for Extension of Time to File Affidavit of Merit is attached hereto as Exhibit 1 and satisfies any procedural requirement of Ohio Civil Rule 10.

Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs.

COUNT II

(Punitive Damages)

14. Plaintiff hereby repeats and realleges the foregoing allegations of this pleading as if fully restated herein.

15. The conduct of Defendants was reckless, and in wanton disregard to Plaintiff's safety in disregarding well established policies, procedures and standards in conducting an unnecessary an unwanted surgical procedure on Plaintiff.

16. Defendants' reckless and wanton behavior was the direct and proximate cause of damages to Plaintiff.

Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs.

COUNT III

(Fraud)

17. Plaintiff hereby repeats and realleges the foregoing allegations of this pleading as if fully restated herein.

18. Defendants made false representations of fact and were made with the knowledge of their falsity or with other disregard and recklessness about its falsity that knowledge may be found.

19. Defendants had knowledge of the concealment of facts which were done when there was a duty to disclose those facts.

20. Defendants knowingly concealed or made false representations of fact that were material to the transaction involved in the surgery performed by Defendant, Harry Persaud, M.D., on Plaintiff. Those representations or concealments were made with the intent of misleading Plaintiff into relying upon it. Plaintiff was justified in relying on the representations and concealments of Defendants and did, in fact, so rely.

21. Furthermore, Plaintiff was injured and the injury was proximately and

directly caused by his reliance on the representations and concealments of Defendants.

Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs.

COUNT IV

(Civil Battery)

22. Plaintiff hereby repeats and realleges the foregoing allegations of this pleading as if fully restated herein.

23. Plaintiff has caused to suffer a civil battery as the stent placement performed on February 9, 2012 was intentional, unconsented and caused contact and actual physical harm to Plaintiff.

24. As a direct and proximate result of the civil battery carried out by Defendants, Plaintiff proximately and directly was caused to suffer injury and substantial damage.

Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs.

COUNT V

(Negligent Infliction of Serious Emotional Distress)

25. Plaintiff hereby repeats and realleges the foregoing allegations of this

pleading as if fully restated herein.

26. Plaintiff avers that Defendants were negligent and that Plaintiff suffered serious emotional distress.

27. Plaintiff avers that the serious emotional distress was the direct result of the negligence of Defendants and that the serious emotional distress of Plaintiff was reasonably foreseeable by Defendants at the time of the alleged negligence.

Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs.

COUNT VI

(Intentional Infliction of Serious Emotional Distress)

28. Plaintiff hereby repeats and realleges the foregoing allegations of this pleading as if fully restated herein.

29. Plaintiff avers that Defendants intentionally or recklessly acted in an extreme and outrageous manner so as to cause serious emotional distress to Plaintiff, and directly and proximately caused mental and physical injury to Plaintiff.

30. Defendants' intentional or reckless acts were so outrageous in character and so extreme in degree that they go beyond all possible bounds of decency and may be regarded as atrocious and utterly intolerable in a civilized community.

31. Plaintiff avers and alleges that Defendants' intentional and reckless acts

proximately caused Plaintiff's mental anguish and physical injury that are so serious in nature that no reasonable person should be expected or could be expected to endure such injury.

Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs.

COUNT VII

(Negligent Credentialing)

32. Defendant, St. John Medical Center, by and through its medical executive committee or its governing body and sufficiently in advance to take appropriate action, knew that Defendant Harry Persaud, M.D., had developed a pattern of incompetence or otherwise inappropriate behavior, but failed to limit or terminate Defendant Persaud's privileges prior to the care rendered to Plaintiff.


33. Defendant, St. John Medical Center, by and through its medical executive committee or its governing body and sufficiently in advance to take appropriate action, knew that Defendant Harry Persaud, M.D., would provide fraudulent medical treatment but failed to limit or terminate Defendant Persaud's privileges prior to the care rendered to Plaintiff.

34. As a result of Defendant, St. John Medical Center's acts of negligent credentialing, Plaintiff was subjected to negligent and fraudulent care and treatment by Defendant Persaud that was the direct and proximate cause of Plaintiff's claimed injuries.

Wherefore, Plaintiff demands judgment against Defendants, jointly and

severally, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with interest and costs.

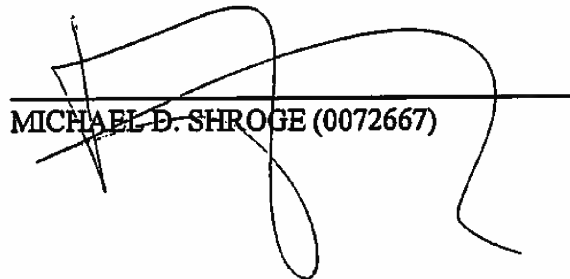
Respectfully submitted,



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JURY DEMAND

Plaintiff requests a jury to try the issues in this case.



MICHAEL D. SHROGE (0072667)

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MEMORANDUM IN SUPPORT

This is a medical negligence action, amongst other claims, filed on behalf of Plaintiff, Anthony Barber, on his own behalf against all Defendants. A Motion has been attached to the Complaint pursuant to Ohio Civil Rule (10) and additional time is required to obtain a supplemental affidavit against Defendants for the following reasons:

1. Plaintiff, most recently by way of certified letter by St. John Medical Center, became aware that he may have been caused an unnecessary and negligent surgery performed by Defendant, Dr. Harry Persaud.
2. With such knowledge, Plaintiff believes that there was negligence, amongst other claims, against Defendants.
3. It will take a period of several months to obtain all of the medical records and all of the other information that should be provided by St. John Medical Center in support of the letter they provided Plaintiff, that he was subject to an unnecessary medical procedure and have them sent out for expert review.
4. In order to obtain and complete an appropriate Affidavit of Merit, Plaintiff's expert requires additional time to complete his final review and provide an Affidavit of Merit.
5. All of the imaging that was performed at several area hospitals, as well as medical records and surgical records and discovery records from St. John Medical Center, are necessary for Plaintiff's expert to perform his final review and provide the necessary Affidavit of Merit.

Thus, pursuant to Civil Rule 10(D)(2)(c) of the Ohio Rules of Civil Procedure, the Court, for good cause, shall grant Plaintiff a reasonable period of time to file an additional Affidavit of Merit upon motion of Plaintiff for this request.

WHEREFORE, Plaintiff prays that he may be given ninety (90) days beyond the filing of Plaintiff's Complaint for Plaintiff's expert to complete his review and file his Affidavit of

Merit.

Respectfully submitted,



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